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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,175	12/22/2003	George E. Adam	115190.00054	7296

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EXAMINER

DULANEY, BENJAMIN O

ART UNIT	PAPER NUMBER
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2625

MAIL DATE	DELIVERY MODE
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10/17/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/743,175

Applicant(s)

ADAM ET AL.

Examiner

Benjamin O. Dulaney

Art Unit

2625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18 is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments, filed 7/10/07, with respect to claims 1-10 have been fully considered and are persuasive. The 35 U.S.C. 103(a) rejection of claims 1-10 has been withdrawn.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- 1) Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1 and 13-17, the use of the words "sufficiently", "ordinarily", and "typical", is indefinite. Each of these phrases are subjective and there is no guidance from the specification on how to interpret when compositions are "sufficiently different", or what is "ordinary", or what type of scanners are "typical" scanners. Examiner recommends deletion of the indefinite words, and a more organized approach to claiming multiple different types of patch material (perhaps by defining a "first material" and a "second material" so that the claim has greater clarity when each different material is referenced).

Claims 2-12 are rejected because they depend upon an indefinite base claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

- 2) Claims 15 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. patent 5,543,940 by Sherman.
- 3) Regarding claim 15, Sherman teaches a color reference patch kit for use in producing color transformation transforms, comprising: a plurality of color reference patches, wherein the color reference patches of the plurality thereof exhibit respective material compositions sufficiently different, one from the other, as to ordinarily prevent a typical scanner, calibrated to a one of such material compositions, from producing scanned color space values of as high a degree of accuracy with respect to scannable objects exhibiting any other of such material compositions than said one of such material compositions (Column 4, line 44 – Column 5, line 23; Column 9, lines 37-61; Column 11, line 49 – Column 12, line 25).
- 4) Regarding claim 16, Sherman teaches a color reference patch kit in accordance with claim 15, wherein the color reference patches of the plurality thereof exhibit respective material compositions sufficiently different, one from the other, with respect to at least one selected from a group comprising respective inks, respective combinations of inks, respective paper, respective combinations of ink and paper, and combinations thereof, as to ordinarily prevent a typical scanner, calibrated to a one of

Art Unit: 2625

such material compositions, from producing scanned color space values of as high a degree of accuracy with respect to scannable objects exhibiting any other of such material compositions than said one of such material composition (Column 4, line 44 – Column 5, line 23; Column 9, lines 37-61; Column 11, line 49 – Column 12, line 25).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5) Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. patent 5,543,940 by Sherman.

Sherman teaches a method according to claim 15, wherein the color reference patches of said plurality thereof include at least two color reference patches, and yet exhibit respective material compositions sufficiently different, one from the other, with respect to at least one selected from a group comprising respective inks, respective combinations of inks; respective paper, respective combinations of ink and paper, and combinations thereof, as to ordinarily prevent a typical scanner, calibrated to a one of such material compositions of said at least two color reference patches, from producing scanned color space values of as high a degree of accuracy with respect to scannable objects exhibiting any other of such material compositions of at least two color reference patches, as with respect to scannable objects exhibiting said one of such material

Art Unit: 2625

compositions of said at least two color reference patches (Column 4, line 44 – Column 5, line 23; Column 9, lines 37-61; Column 11, line 49 – Column 12, line 25).

Sherman does not specifically teach two color reference patches exhibiting substantially the same color.

Examiner takes official notice that using similar color schemes for multiple patches is well known in the art and obvious to combine with the invention of Sherman that teaches the ability to scan color off of many different materials. Having a standard color set to scan would make the most sense for scanning many different materials as Sherman details.

Allowable Subject Matter

Claim 18 is allowed.

The following is a statement of reasons for the indication of allowable subject matter: The prior art does not specifically teach compensation transforms for CMYK inks are processed for different levels of K using the formula $y = af_{\text{sub}.0}(x) + (1 - a)f_{\text{sub}.1}(x)$, wherein y is the compensated output, x is the uncompensated output, $f_{\text{sub}.0}(x)$ is a transform for a first K cube, $f_{\text{sub}.1}(x)$ is a transform for a second K cube, and a is a scaling factor.

Conclusion

Art Unit: 2625

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin O. Dulaney whose telephone number is (571) 272-2874. The examiner can normally be reached on Monday - Friday (9am - 6pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Twyler Lamb can be reached on (571)272-7406. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Benjamin O. Dulaney

Twyler Lamb
TWYLER LAMB
SUPERVISORY PATENT EXAMINER